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ALL PLAN LETTER 20-004 (*REVISED*)

TO: ALL MEDI-CAL MANAGED CARE HEALTH PLANS

SUBJECT: EMERGENCY GUIDANCE FOR MEDI-CAL MANAGED CARE HEALTH PLANS IN RESPONSE TO COVID-19

PURPOSE:

The purpose of this All Plan Letter (APL) is to provide information to Medi-Cal managed care health plans (MCPs) on temporary changes to federal requirements as a result of the ongoing global Novel Coronavirus Disease (COVID-19) pandemic. As the Department of Health Care Services (DHCS) continues to respond to concerns and changing circumstances resulting from the pandemic, DHCS will provide updated guidance to MCPs. *Revised text is found in italics.*

BACKGROUND:

In light of both the federal Health and Human Services Secretary's January 31, 2020, public health emergency declaration, as well as the President's March 13, 2020, national emergency declaration, DHCS began exploring options to temporarily waive and/or modify certain Medicaid and Children's Health Insurance Program requirements. On March 16, 2020, March 19, 2020, and April 10, 2020, DHCS submitted requests to waive or modify a number of federal requirements under Section 1135 of the Social Security Act (Title 42 United States Code section 1320b-5) to the Centers for Medicare and Medicaid Services (CMS). DHCS' Section 1135 Waiver submissions requested various flexibilities related to COVID-19. On March 23, 2020, *and May 8, 2020*, CMS issued approval letters to DHCS authorizing specific Section 1135 flexibilities.¹

To streamline the Section 1135 Waiver request and approval process, CMS issued a number of blanket waivers for many Medicare provisions that do not require individualized approval. While not all of these waivers apply to Medicaid, CMS has provided guidance for specified health care providers regarding blanket waivers on *a variety of topics, including, but not limited to, Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs); Long Term Care Facilities and Skilled Nursing Facilities and/or Nursing*

¹ The Section 1135 Waiver requests and CMS approval letters can be found on the DHCS COVID-19 Response webpage at the following link:

<https://www.dhcs.ca.gov/Pages/DHCS-COVID%E2%80%99119-Response.aspx>

*Facilities; Durable Medical Equipment, Prosthetics, Orthotics and Supplies; and Provider Enrollment.*²

DHCS will provide updates to this guidance to reflect any additional Section 1135 Waiver approvals *not reflected in the March 23rd and May 8th approval letters*, as appropriate.

On March 6, 2020, DHCS issued a Memorandum (Memo) to MCPs to remind them of existing contractual and legal requirements to ensure access to medically necessary services in a timely manner, in particular as related to COVID-19. DHCS subsequently updated the Memo on March 16, 2020 to include additional guidance. This APL incorporates the guidance provided in that Memo.

*On May 13, 2020, CMS issued a letter approving DHCS' proposed amendment to add section 7.4 Medicaid Disaster Relief for the COVID-19 National Emergency to California's Medicaid State Plan.*³ *State Plan Amendment (SPA) 20-0024 implements temporary policies, different from those otherwise applied under California's Medicaid state plan, during the period of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak. DHCS guidance on various temporary policies included in SPA 20-0024 is posted on the DHCS COVID-19 Response page; relevant changes affecting the Medi-Cal managed care delivery system are also addressed in this APL.*

POLICY:

Part 1 – Section 1135 Waiver Approvals

CMS' responses to DHCS' flexibility requests are applicable, in part, to the Medi-Cal managed care delivery system, including the following:

State Fair Hearings

DHCS has received CMS approval to extend the timeframe for MCP members to request a state fair hearing. For details, refer to the March 23rd CMS approval letter and the Supplement to APL 17-006, titled "Emergency State Fair Hearing Timeframe Change – Managed Care."⁴

² CMS' current COVID-19 Emergency Declaration Blanket Waivers and Flexibilities for Health Care Providers document can be found at: <https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers>

³ SPA 20-0024 – CMS-Approved COVID-10 State Plan Amendments is available on the DHCS COVID-19 Response webpage.

⁴ APLs, along with any Supplements, can be found at: <https://www.dhcs.ca.gov/formsandpubs/Pages/AllPlanLetters.aspx>

Provider Enrollment/Screening

In the March 23, 2020 response, CMS approved certain temporary flexibilities for provider screening and enrollment. DHCS has issued guidance regarding these flexibilities for provider enrollment that applies to both Medi-Cal *Fee-For-Service* (FFS) and managed care provider screening and enrollment. This guidance is listed as “Guidance for Emergency Medi-Cal Provider Enrollment” on the DHCS COVID-19 Response webpage and allows for an emergency provider enrollment process. MCPs that conduct provider enrollment through their own process must implement a similar process to that contained in this guidance.

MCPs that rely on DHCS’ Provider Enrollment Division (PED) must direct potential new providers to the process outlined in the DHCS guidance referenced above. Immediately upon successful completion of the emergency enrollment application process through PED, providers will receive an approval email message, and an approval letter in DHCS’ Provider Application and Validation for Enrollment portal, stating that they have been granted enrollment for 60 days, with the possibility of extension in 60-day increments. MCPs must require these providers to submit a copy of their approval letter as proof of the approved temporary enrollment prior to providing services to MCP members.

Prior Authorization

While the Section 1135 Waiver approvals relating to prior authorization focus on Medi-Cal FFS, CMS, in its COVID-19 Frequently Asked Questions for State Medicaid and Children’s Health Insurance Program (CHIP) Agencies, indicated that states may modify prior authorization requirements for Medicaid managed care. For Medi-Cal managed care, DHCS is exercising this authority to require MCPs to waive prior authorization requirements for *COVID-19 related testing and treatment* services. In addition, MCPs are strongly encouraged to implement expedited authorization procedures for other services during the COVID-19 public health emergency. For details, refer to the “FFS Prior Authorization – Section 1135 Waiver Flexibilities” guidance, *including any subsequently released updates to this guidance*, which is available on the DHCS COVID-19 Response webpage.

Reimbursement for COVID-19 Testing

DHCS will reimburse Medi-Cal FFS providers for COVID-19 testing based on the Medicare fee schedule. Unless otherwise agreed to between the MCP and the provider, DHCS encourages MCPs to reimburse providers for COVID-19 testing at the Medicare fee schedule rates as noted below.

- Healthcare Common Procedure Coding System (HCPCS) code U0001 (the Centers for Disease Control [CDC] test) - \$35.91
- HCPCS code U0002 (the non-CDC test) - \$51.31

Provision of Care in Alternative Settings, Hospital Capacity, and Blanket Section 1135 Waiver Flexibilities for Medicare and Medicaid Enrolled Providers Relative to COVID-19

Based on the *guidance issued by CMS*, DHCS issued the “Provision of Care in Alternative Setting, Hospital Capacity, and Blanket Section 1135 Waiver Flexibilities for Medicare and Medicaid Enrolled Providers Relative to COVID-19” guidance document, which will remain in effect through the end of the COVID-19 public health emergency. This guidance is applicable to MCPs, *including any subsequently released updates to this guidance*, and is available on the DHCS COVID-19 Response webpage.

Pharmacy

On April 3, 2020, DHCS issued the “Off-label and/or Investigational Drugs Used to Treat COVID-19 and/or Related Conditions” guidance document. This guidance provides information regarding temporary flexibilities in dispensing/administration policies governing off-label and investigational use of medications used to treat COVID-19 under the Medi-Cal FFS pharmacy benefit. In addition, DHCS issued the “Information Regarding the Use of Subcutaneous Depot Medroxyprogesterone Acetate During the 2019 Novel Coronavirus Public Health Emergency” guidance document. This guidance temporarily allows for pharmacy dispensing of Subcutaneous Depot Medroxyprogesterone Acetate directly to beneficiaries for self-administration at home. MCPs must follow the requirements contained in these pharmacy guidance documents, including any subsequently released updates to this guidance. This guidance is available on the DHCS COVID-19 Response webpage.

Part 2 – Additional Guidance to MCPs

As the State of California responds to the COVID-19 situation, DHCS is regularly updating and distributing guidance to MCPs, counties and providers. Please refer to the DHCS COVID-19 Response webpage for the most up-to-date information available. MCPs should send questions, concerns and reports of member access issues to their DHCS Managed Care Operations Division (MCOD) Contract Manager.

DHCS reminds MCPs that they must adhere to existing contractual requirements and state and federal laws requiring MCPs to ensure their members are able to access medically necessary services in a timely manner.⁵ MCPs must:

- Cover all medically necessary emergency care without prior authorization, whether that care is provided by an in-network or out-of-network provider.

⁵ Similar provisions are outlined in the Department of Managed Health Care (DMHC) APL 20-006, which applies to MCPs licensed by DMHC.

- Comply with utilization review timeframes for approving requests for urgent and non-urgent covered services. MCPs are required to waive prior authorization requests for services, including screening and testing, related to COVID-19.
- Ensure their provider networks are adequate to handle an increase in the need for services, including offering access to out-of-network services where appropriate and required, as more COVID-19 cases emerge in California.
- Ensure members are not liable for balance bills from providers, including balance billing related to COVID-19 testing.
- Provide members with 24-hour access to an MCP representative with the authority to authorize services, and ensure that DHCS has contact information for that person. This contact information must be provided to the MCP's MCOD Contract Manager upon request by DHCS.

MCPs must proactively ensure members can access all medically necessary screening and testing of COVID-19. To this end, the sections below provide further guidance on specific topics.

Telehealth

MCPs must work with their contracted providers to use telehealth services to deliver care when medically appropriate, as a means to limit members' exposure to others who may be infected with COVID-19 and to increase provider capacity. Please refer to DHCS All Plan Letter 19-009 (REVISED), and the Supplement to APL 19-009 (REVISED) that was issued on March 18, 2020, for clarification on the Medi-Cal telehealth policy *for the duration of the public health emergency*.

In addition to existing Medi-Cal telehealth policies, DHCS also allows reimbursement for virtual communication, which includes a brief communication with another practitioner or with a patient for COVID-19 related services, who cannot or should not be physically present (face-to-face). For encounter reporting purposes, providers must use HCPCS codes G2010 and G2012 for brief virtual communications.

DHCS notes that the United States Department of Health and Human Services Office of Civil Rights (HHS-OCR) has clarified that it will exercise its enforcement discretion for noncompliance with the regulatory requirements under the Health Insurance Portability and Accountability Act (HIPAA). The HHS-OCR will not impose penalties against providers who use telehealth in good faith. Providers can use any non-public-facing remote communication (audio or video) product that is available to communicate with patients. Providers may use popular applications that allow for video chats, such as Apple FaceTime or Skype, to provide telehealth. Additional guidance regarding HHS-OCR's

HIPAA enforcement can be found on HHS-OCR's webpage.⁶ CMS has also issued guidance on the use of telehealth for providers dually certified in Medicare/Medicaid.⁷

DHCS issued telehealth guidance related to DHCS' Section 1135 Waiver requests.⁸ DHCS has instructed all Medi-Cal providers, including Federally Qualified Health Centers (FQHC), Rural Health Clinics (RHC), and Indian Health Services (IHS) clinics to implement the guidance related to telehealth and virtual/telephonic communication modalities immediately in light of COVID-19. Accordingly, DHCS instructs MCPs to implement this guidance, *including any subsequently released updates to this guidance*, with their providers, and allow FQHCs, RHCs and IHS clinics to provide and bill for virtual/telephonic visits consistent with in person visits. Additionally, virtual/telephonic visits provided pursuant to this guidance are eligible for prospective payment system (PPS) rates, or all-inclusive rates, as applicable.

Well-Child Visits

Well-child visits or regular checkups are an important way to monitor children's growth and development and ensure that children are up-to-date with their vaccinations. With California's stay at home guidance, and federal guidance on non-essential medical procedures, DHCS recognizes that members/parent caregivers may be cautious about making medical appointments for well-child visits. Under the Early and Periodic Screening, Diagnostic, and Treatment benefit, Medi-Cal covers recommended vaccines, preventive care, and screening for infants and children as recommended by the American Academy of Pediatrics (AAP)/Bright Futures, and in accordance with the AAP Periodicity Schedule.

In light of COVID-19, the AAP has developed guidance on the provision of pediatric well-care services via telehealth during the pandemic.⁹ This guidance, most recently updated on May 8, 2020, suggests that well-child care should occur in person whenever possible.

⁶ The Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency on the HHS-OCR website is available at: <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

⁷ Physicians and Other Clinicians: CMS Flexibilities to Fight COVID-19 is available at: <https://www.cms.gov/files/document/covid-19-physicians-and-practitioners.pdf>

⁸ The Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications Relative to the 2019-Novel Coronavirus (COVID-19) guidance is available on the DHCS COVID-19 Response webpage.

⁹ The AAP guidance is available at the following links: <https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/guidance-on-providing-pediatric-well-care-during-covid-19/> and <https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/guidance-on-the-necessary-use-of-telehealth-during-the-covid-19-pandemic/>

In its Guidance on the Necessary Use of Telehealth During the COVID-19 Pandemic, AAP states: "Well visits for children may be initiated through telehealth, recognizing that some elements of the well exam should be completed in person. These elements include, at a minimum: the comprehensive physical exam; office testing, including laboratory testing; hearing, vision, and oral health screening; fluoride varnish; and immunizations."¹⁰ The AAP encourages providers that have successfully implemented telehealth to provide appropriate elements of the well-child exam virtually to continue to support these well-child telehealth encounters, followed by a timely in-person visit.¹¹

In accordance with the AAP guidance, and to ensure continued adherence to the Bright Futures guidelines, DHCS encourages MCPs to follow the AAP guidance described above and to encourage their pediatric providers to discuss with members/parent caregivers the benefit of attending a well-child visit in person to receive necessary immunizations and screenings, in addition to the provision of services via telehealth.

To the extent there are components of the comprehensive well-child visit provided in-person (due to those components not being appropriately provided via telehealth) that are a continuation of companion services provided via virtual/telephonic communication, the provider should only bill for one encounter/visit.¹²

Transportation

MCPs must approve transportation requests in a timely manner if a member, who may be infected with COVID-19, needs to see a provider in person and requests transportation. MCPs are responsible for determining the appropriate mode of transportation required to meet the members' medical needs, paying special attention to those with urgent needs such as dialysis or chemotherapy treatments. Please refer to DHCS' "COVID-19 Guidance for Non-Emergency Medical Transportation (NEMT) and Non-Medical Transportation (NMT) Providers" for recommendations on safety procedures and protocols to help prevent the spread of COVID-19.¹³

¹⁰ See the AAP Guidance on the Necessary Use of Telehealth During the COVID-19 Pandemic, available at the following link: <https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/guidance-on-the-necessary-use-of-telehealth-during-the-covid-19-pandemic/>

¹¹ See the AAP Guidance on Providing Pediatric Well-Care During COVID-19, available at the following link: <https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/guidance-on-providing-pediatric-well-care-during-covid-19/>

¹² The Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications Relative to the 2019-Novel Coronavirus (COVID-19) guidance is available on the DHCS COVID-19 Response webpage.

¹³ COVID-19 Guidance for NEMT and NMT Providers is available at: http://files.medi-cal.ca.gov/pubsdoco/newsroom/newsroom_30372.asp

Pharmacy Services

MCPs must act proactively to ensure member access to needed prescription medications.

Proactive steps MCPs must take include:

- Covering maintenance medications (both generic and brands) at a minimum 90 day supply. Medi-Cal allows up to a 100-day supply per dispensing of a covered drug. Note that Medi-Cal quantity per dispensing utilization control limitations on certain opioid containing medications still apply.
- Covering or waiving any prescription delivery costs so that members may receive free prescription delivery.
- Approving out-of-network overrides for members who may be temporarily outside the MCP's service area due to COVID-19 concerns.
- Setting refill-too-soon edits for maintenance medications to 75 percent or less to authorize early refills when 75 percent of prior prescription has been used. This policy change does not apply to certain medications with quantity/frequency limitations as required by federal and/or state law.
- Expanding pharmacy benefit coverage for all disinfectant solutions and wipes that are able to be processed through the pharmacy benefit systems.
- Ensuring 24/7/365 call center support is available for pharmacies, providers, and members who need support.

In the event of a shortage of any particular prescription drug, MCPs must waive prior authorization and/or step therapy requirements if the member's prescribing provider recommends the member take a different drug to treat the member's condition.

Member Eligibility

DHCS has delayed Medi-Cal redetermination processing to ensure members continue to have access to services. Members with upcoming redetermination dates will not need to start the redetermination process. Members' redetermination dates will remain the same, and existing managed care members will continue to be enrolled in their MCP. Please refer to the Medi-Cal Eligibility Information Letter (MEDIL) 20-07 for more information about these changes.¹⁴

Medi-Cal beneficiaries who have active eligibility, but are in an MCP HOLD status in the Medi-Cal Eligibility Data System are not without coverage; these individuals would access services through the Medi-Cal FFS providers.

¹⁴ MEDIL 20-07 is available at:

<https://www.dhcs.ca.gov/services/medi-cal/eligibility/Documents/MEDIL/2020/I20-07.pdf>

Encounter Data

DHCS reminds MCPs that they must submit complete and timely encounter data utilizing all applicable *medical* coding in a manner consistent with federal guidance, including codes for COVID-19. MCPs should direct specific questions regarding encounter data reporting requirements to MMCDEncounterData@dhcs.ca.gov.

In addition, to prevent non-critical burdens on MCP provider networks during the COVID-19 response, DHCS is temporarily pausing the State Fiscal Year 2019-2020 Encounter Data Validation (EDV) study, including the medical record procurement requirements. DHCS and its External Quality Review Organization, Health Services Advisory Group, will evaluate an appropriate timeline to resume the EDV activities.

Health Homes

Based on CMS guidance, DHCS is allowing flexibility for Health Homes Program services to be conducted in a manner that prioritizes the safety of both the providers and the members. In order to minimize the risk of serious illness due to COVID-19, DHCS encourages MCPs and their contracted Community-Based Care Management Entities to implement telephonic and video call assessments to substitute for face-to-face assessments, in compliance with Medi-Cal's telehealth policy, as described above. DHCS will be suspending its current in-person visit requirements until the COVID-19 emergency declaration is rescinded.

Initial Health Assessment

For any members newly enrolled in the MCP between December 1, 2019, and the end of the public health emergency, DHCS is temporarily suspending the requirement to complete an Initial Health Assessment (IHA), as described in the MCP contract with DHCS, within the timeframes outlined in the contract (120 days for most members). MCPs are permitted to defer the completion of the IHA for these members until the COVID-19 emergency declaration is rescinded; however, DHCS will require the completion of the IHA for these members once the public health emergency is over.

Quality Monitoring, Programs & Initiatives

1. Quarterly Monitoring:

DHCS is allowing flexibility on MCP responses to the Quarterly Monitoring Response Template (QMRT). DHCS will continue to send MCP-specific results for all QMRT components through the quarterly monitoring process. However, in order to allow MCPs to prioritize their resources on activities related to COVID-19, MCPs will only be required to submit their responses *for B-1: Grievances and B-2: SFHs*

report, until the COVID-19 emergency declaration is rescinded. MCPs are not required to provide responses on the following components of the QMRT:

- A-1: Full-Time Equivalent Physician to Member Ratios
- A-2: Timely Access Survey
- A-3: Network Report
- A-4: Mandatory Provider Types
- A-5: *Physician Supervisor to Non-Physician Medical Practitioner Ratios*
- B-3: *Out-of-Network Requests*

If DHCS identifies any areas of concern for other quarterly monitoring components, DHCS will work with the MCPs on an individual basis. MCPs should direct questions regarding quarterly monitoring to DHCS-PMU@dhcs.ca.gov.

2. Timely Access Survey:

DHCS has ceased the timely access survey calls to alleviate burden on provider offices during this critical time.

3. Managed Care Program Data Improvement Project

In order to ease administrative demands on MCPs during the COVID-19 response, DHCS is extending the compliance deadline for the Managed Care Program Data Improvement Project (MCPDIP) from July 1, 2020, to July 1, 2021. MCPs that are able to continue MCPDIP activities, complete the necessary testing protocols, and receive approval from DHCS may begin to submit production data for July 2020 as early as August 1, 2020, consistent with the original project schedule. DHCS will continue to support MCPDIP and make technical assistance available to each MCP consistent with the original project schedule.

File and Use

DHCS has approved for MCPs to submit certain documents, including proposed telephone outreach scripts, related to COVID-19 as file and use. File and use means that once an MCP submits the documents or scripts to DHCS, the MCP can immediately begin using those documents or scripts with its members, subject to further DHCS directive. All information communicated to members must be information related to COVID-19 that directly came from DHCS, the California Department of Public Health, or the CDC. In addition, pursuant to HIPAA, the documents or scripts must not contain any Protected Health Information or Personal Information of a member. If there are any edits or changes that need to be made to those documents or scripts after DHCS completes its

review, the MCP must make those edits and changes within a specified number of days, as directed by DHCS.

The following documents and scripts have been approved for file and use:

- *Robo-calls*
- *Call campaigns*
- *Printed mailer communications*
- *E-mail communications (MCPs choosing to do e-mail communication must also utilize another method of communication because not all members will have an e-mail address on file)*
- *Texting campaigns (MCPs can only do file and use if they have one or more texting campaigns that have been approved as of June 18, 2019, forward)*

Part 3 – SPA 20-0024 Policies

Temporary Reinstatement of Acetaminophen and Cough/Cold Medicines

Primary symptoms of COVID-19 involve pain, aches, fever, and significant cough and congestion. The preferred treatments for these symptoms are over-the counter fever reducers, analgesics, and cough/cold products. These treatments are often the safest, most effective, and least costly alternatives for the population most at risk of both contracting the virus and subsequently experiencing the most severe symptoms. Therefore, pursuant to SPA 20-0024, DHCS issued guidance on May 13, 2020, regarding the temporary reinstatement of non-legend acetaminophen-containing products and non-legend cough and cold products for adults as covered benefits with the Medi-Cal FFS program. MCPs are required to follow this FFS-issued guidance, including the provision of these over-the-counter drugs without prior authorization.¹⁵

Temporary Addition of Provider Types at FQHCs and RHCs

Pursuant to SPA 20-0024, DHCS issued guidance on May 20, 2020, temporarily adding the services of Associate Clinical Social Workers (ACSWs) and Associate Marriage and Family Therapists (AMFTs) at FQHCs and RHCs as billable visits.¹⁶ The California Board of Behavioral Sciences (BBS) does not consider ACSWs or AMFTs to be licensed practitioners. Therefore, licensed behavioral health practitioners must supervise and assume the professional liability of services furnished by the unlicensed ACSW and AMFT practitioners. The licensed practitioner must also comply with supervision requirements established by the BBS. FQHCs or RHCs can be reimbursed in accordance

¹⁵ See “Pharmacy- Coverage of Acetaminophen, and Cough and Cold medicines for Adults” on the DHCS COVID-19 Response page.

¹⁶ See “Rural Health Clinics/FQHCs – Associate Clinical Social Worker/Associate Marriage and Family Therapist Services” on the DHCS COVID-19 Response page.

with the terms of the MCP's contract with the State related to FQHCs and RHCs for a visit between an FQHC or RHC patient and an ACSW or AMFT. The visit may be conducted as a face to face encounter or meet the requirements of a visit provided via telehealth.

MCPs are responsible for ensuring that their subcontractors and network providers comply with all applicable state and federal laws and regulations, contract requirements, and other DHCS guidance, including APLs and Policy Letters. MCPs must promptly communicate the substance of this APL to their subcontractors and network providers.

If you have any questions regarding this APL, please contact your MCO Contract Manager.

Sincerely,

Original Signed by Nathan Nau

Nathan Nau, Chief
Managed Care Quality and Monitoring Division